

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MUOI T. HUYNH,

Plaintiff,

CV-06-1389-ST

v.

ORDER

MICHAEL J. ASTRUE, Commissioner of the
Social Security Administration,

Defendant.

STEWART, Magistrate Judge:

On February 7, 2008, this court reversed and remanded the decision of the Commissioner for the calculation and payment of benefits pursuant to Sentence Four of 42 USC § 405(g) (docket #30). On April 22, 2008, plaintiff filed a Stipulated Motion for Fees Pursuant to the Equal Access to Justice Act (“EAJA”), 28 USC § 2412, in the sum of \$6,059.20 (docket #31), which this court granted the next day (docket #32).

On August 31, 2009,¹ plaintiff filed an unopposed Motion for Approval of Attorney Fees Pursuant to 42 USC § 406(b) in the sum of \$4,777.80 (docket #33). This amount is based on 25% of the retroactive benefits paid to plaintiff of approximately \$43,348.00 for August 2001 through March 2008 in the amount of \$10,837.00, less the previously awarded fees under EAJA of \$6,059.20 paid by defendant.

On September 2, 2009, this court ordered plaintiff to support the attorney fee request with a supplemental affidavit showing the number of hours expended and hourly rates requested (docket #34). Plaintiff filed that affidavit on September 10, 2009 (docket #35). Upon review of that affidavit, this court finds that the attorney fee requested is reasonable based on the amount of work done and the hourly rate requested. Therefore, plaintiff's motion is GRANTED in the sum of \$4,777.80.

DATED this 8th day of October, 2009.

s/ Janice M. Stewart _____
Janice M. Stewart
United States Magistrate Judge

¹ Plaintiff does not explain the delay in filing this motion. This court assumes that it is likely due to the delay in obtaining a final award of benefits from the Commissioner.